

1 JOHN C. CRUDEN
Acting Assistant Attorney General
2 Environment & Natural Resources Division

3 ROCHELLE L. RUSSELL (Cal. Bar No. 244992)
Trial Attorney
4 U.S. Department of Justice
Environment & Natural Resources Division
5 301 Howard Street, Suite 1050
San Francisco, CA 94150
6 Tel: (415) 744-6566
Fax: (415) 744-6476
7 Email: rochelle.russell@usdoj.gov
Attorney for Defendants

8
9
10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 ASSOCIATION OF IRRITATED
14 RESIDENTS, an unincorporated association,

15 Plaintiff,

16 v.

17 UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, LISA P.
18 JACKSON, in her official capacity as
Administrator of the United States
19 Environmental Protection Agency, and
WAYNE NASTRI, in his official capacity as
20 Regional Administrator for Region IX of the
United States Environmental Protection
21 Agency, ^{1/}

22 Defendants.
23

Case No. 08-cv-05650 CW

**STIPULATION TO STAY THE
CASE PENDING PUBLIC
COMMENT ON THE PROPOSED
CONSENT DECREE**

AND

ORDER THEREON **AS MODIFIED**

24
25
26 ^{1/} Stephen L. Johnson was previously named as the lead defendant in this case in his
official capacity as Administrator of the United States Environmental Protection Agency.
27 Pursuant to Fed. R. Civ. P. 25(d), his successor, Lisa P. Jackson, is automatically substituted.
28 Defendant Wayne Nastri no longer holds the position of Regional Administrator for Region IX
of the United States Environmental Protection Agency; his successor, however, has not yet been
chosen, and he therefore remains a named defendant in this action.

1 WHEREAS, on December 18, 2008, Plaintiff Association of Irritated Residents filed the
 2 above-captioned matter against the United States Environmental Protection Agency ("EPA"),
 3 alleging that EPA has failed to undertake certain nondiscretionary duties under the Clean Air
 4 Act, 42 U.S.C. §§ 7401-7671q, and that such alleged failures are actionable under section
 5 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2);

6 WHEREAS, on May 29, 2009, EPA lodged a proposed Consent Decree with the Court,
 7 which would fully resolve the claims alleged against EPA in Plaintiff's complaint;

8 WHEREAS, before the proposed Consent Decree can be entered by the Court, EPA must
 9 provide notice of the Consent Decree in the Federal Register and an opportunity for public
 10 comment pursuant to section 113(g) of the Clean Air Act, 42 U.S.C. § 7413(g);

11 WHEREAS, the EPA Administrator will promptly consider any written comments
 12 received on the proposed Consent Decree and, if none of the comments disclose facts or
 13 considerations which indicate that the Decree is inappropriate, improper, inadequate, or
 14 inconsistent with the requirements of the Clean Air Act, EPA will move for the Court's entry of
 15 the Consent Decree;

16 NOW THEREFORE, pursuant to Local Rules 6-2 and 7-12, the parties, by and through
 17 their undersigned counsel, hereby stipulate to stay the case pending EPA's consideration of
 18 public comments on the proposed Consent Decree. The stay shall remain in effect until EPA
 19 either moves for entry of the Consent Decree, or thirty days after the close of the public
 20 comment period as noticed in the Federal Register pursuant to section 113(g) of the Clean Air
 21 Act, 42 U.S.C. § 7413(g), whichever is earlier.

22 **COUNSEL FOR PLAINTIFF:**

23 Dated: June 2, 2009

24 /s/ Brent Newell (with permission)
 25 BRENT NEWELL
 26 MARYBELLE NZEGWU
 27 Center On Race, Poverty & the Environment
 28 47 Kearney Street, Suite 804
 San Francisco, CA 94108
 Phone: (415) 346-4179
 Email: bnewell@crpe-ej.org
 Email: mnzegwu@crpe-ej.org
*Counsel for Plaintiff Association of Irritated
 Residents*

COUNSEL FOR DEFENDANTS:

Dated: June 2, 2009

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment & Natural Resources Division

/s/ Rochelle L. Russell
ROCHELLE L. RUSSELL
Attorney, Environmental Defense Section
U.S. Department of Justice
301 Howard Street, Suite 1050
San Francisco, CA 94150
Tel: (415) 744-6566
Fax: (415) 744-6476
Email: rochelle.russell@usdoj.gov
Attorney for Defendants

**PURSUANT TO STIPULATION, IT IS SO ORDERED. THE CASE MANAGEMENT
CONFERENCE IS CONTINUED FROM 6/30/09 TO 9/15/09 AT 2:00 P.M.**

6/10/09
Dated: _____



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I certify that on June 2, 2009, a true and correct copy of the foregoing **STIPULATION TO STAY THE CASE PENDING PUBLIC COMMENT ON THE PROPOSED CONSENT DECREE** was served electronically via the Court's e-filing system to Counsel of Record.

/s/ Rochelle L. Russell
ROCHELLE L. RUSSELL